

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Frank Montgoris	Team: Squad #13	CCRB Case #: 201709852	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 11/28/2017 8:29 AM, Wednesday, 11/29/2017	Location of Incident: § 87(2)(b) 81st Precinct Stationhouse	Precinct: 81	18 Mo. SOL 5/28/2019	EO SOL 5/28/2019	
Date/Time CV Reported Wed, 11/29/2017 9:43 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 11/29/2017 9:43 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Joseph Filippi	11107	960541	081 PCT
2. An officer			081 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Eric Chan	08699	961680	081 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Joseph Filippi	Discourtesy: On November 28, 2017, in the vicinity of § 87(2)(b) in Brooklyn, Police Officer Joseph Filippi spoke discourteously to § 87(2)(b)	§ 87(2)(b)
B.POM Joseph Filippi	Force: On November 28, 2017, in the vicinity of § 87(2)(b) in Brooklyn, Police Officer Joseph Filippi used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Joseph Filippi	Abuse: On November 28, 2017, in the vicinity of § 87(2)(b) in Brooklyn, Police Officer Joseph Filippi did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)
D. An officer	Abuse: On November 29, 2017, inside of the 81st Precinct stationhouse, an officer did not process § 87(2)(b)'s complaint regarding Police Officer Joseph Filippi.	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via phone on November 29, 2017. § 87(2)(b) also filed a duplicate complaint with IAB the same day, generating log number 17-47397.

On November 28, 2017, at approximately 8:29 a.m., PO Joseph Filippi and PO Eric Chan, from the 81st Precinct, responded to a domestic dispute at § 87(2)(b)'s apartment, located at § 87(2)(b) § 87(2)(b) in Brooklyn. PO Filippi allegedly spoke discourteously to § 87(2)(b) (**Allegation A: Discourtesy**, § 87(2)(g)) PO Filippi pushed § 87(2)(b) out of the apartment and pulled her down to the ground (**Allegation B: Force**, § 87(2)(g)) PO Filippi allegedly refused to provide § 87(2)(b) with medical treatment (**Allegation C: Abuse of Authority**, § 87(2)(g)) § 87(2)(b) was arrested and charged with § 87(2)(b).

On November 29, 2017, § 87(2)(b) returned to the 81st Precinct stationhouse sometime before 4:30 a.m., where an unidentified officer allegedly refused to process her civilian complaint against PO Filippi (**Allegation D: Abuse of Authority**, § 87(2)(g)).

Findings and Recommendations

Allegation A – Discourtesy: On November 28, 2017, in the vicinity of § 87(2)(b) in Brooklyn, Police Officer Joseph Filippi spoke discourteously to § 87(2)(b)

It is undisputed that officers asked § 87(2)(b) to leave the apartment, and that she refused multiple orders to do so. It is also undisputed that § 87(2)(b) resisted being handcuffed in the hallway. Last, it is undisputed that, aside from § 87(2)(b) PO Filippi, and PO Chan, nobody else was present in the elevator when § 87(2)(b) was being escorted out of the building.

§ 87(2)(b) alleged that, after refusing to leave the apartment, PO Filippi allegedly told her, “Get the fuck out.” Later, while PO Filippi was trying to handcuff § 87(2)(b) PO Filippi allegedly told her, “Get the fuck down.” Finally, while being escorted downstairs in the elevator, § 87(2)(b) complained to PO Filippi that her handcuffs were too tight and that he had no reason to arrest her, and PO Filippi allegedly responded, “I don’t give a fuck” (Board Review 01).

Both § 87(2)(b) and § 87(2)(b) § 87(2)(b)'s mother and brother, respectively, who would have been in the vicinity to hear § 87(2)(b)'s interaction with PO Filippi, denied hearing PO Filippi use any profanity towards § 87(2)(b) during the incident in their phone statements to the investigation, with § 87(2)(b) definitively denying that PO Filippi cursed at her. Similarly, § 87(2)(b) a tenant who lives in § 87(2)(b) and who also provided a brief phone statement, partially observed the interaction between § 87(2)(b) and officers from less than 50 feet away and also denied hearing PO Filippi use profanity towards her. Contact attempts were made to additional tenants living on the § 87(2)(b) but they either denied observing the incident or were unavailable to the investigation (Board Reviews 02, 03, 04; See IAs).

PO Filippi did not recall using any profanity towards § 87(2)(b) PO Chan denied hearing PO Filippi use any profanity towards § 87(2)(b) (Board Reviews 05 and 06).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Force: On November 28, 2017, in the vicinity of § 87(2)(b) in Brooklyn, Police Officer Joseph Filippi used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b) provided active resistance to PO Filippi during the handcuffing process.

§ 87(2)(b) alleged that, while she was walking out of the apartment, PO Filippi shoved her from behind, causing her to fall against the wall in the hallway. PO Filippi then grabbed § 87(2)(b)'s right wrist and attempted to bring it behind her back, but she swung her body around to the right to try and get PO Filippi off her. § 87(2)(b) acknowledged swaying her body back and forth, "fighting" against PO Filippi. PO Filippi pulled § 87(2)(b) down to the ground by grabbing her arms, shoulders, and her clothes. She continued to swing her whole body, which she described as similar to "wrestling," to try and get PO Filippi off of her, but PO Filippi continuously yanked at her arms and eventually got her into handcuffs after approximately 15 to 20 minutes. § 87(2)(b) sustained what she described was a scar to her arm, which she alleged she sustained from PO Filippi's fingerprint from him grabbing her arm during the physical struggle (Board Review 01).

§ 87(2)(b) in a brief phone statement, stated that she heard yelling from inside of her apartment, and she opened the door to the hallway. She observed PO Filippi pull § 87(2)(b) out of the other apartment and into the hallway, and tell § 87(2)(b) several times, "Stop and turn around." § 87(2)(b) did not comply with PO Filippi's commands, continuously trying to "say her peace," and PO Filippi pulled her down to the ground. § 87(2)(b) kept moving her body while on the ground, and PO Filippi kept trying to grab various parts of her body to combat her resistance. § 87(2)(b) denied seeing PO Filippi punch or kick § 87(2)(b) during the struggle. § 87(2)(b) declined to provide an in-person statement to the investigation (Board Review 04).

Both § 87(2)(b) and § 87(2)(b) denied seeing the physical struggle in the hallway during their phone statements, but both individuals denied seeing PO Filippi use force against § 87(2)(b) while inside of the apartment. As previously discussed, additional tenants on the § 87(2)(b) were either unavailable to the investigation or did not witness the incident (Board Reviews 02 and 03; See IAs).

Both PO Filippi and PO Chan testified that § 87(2)(b) initially walked out of the apartment, but charged back in after a comment made towards her by § 87(2)(b) and tried to push past the officers to get to him. Both officers denied that PO Filippi shoved § 87(2)(b) out of the apartment, instead stating that she was walked back out to the hallway. Also, both officers consistently stated that § 87(2)(b) refused to give PO Filippi her hands, flailing them around her body, and that she ultimately ended up on the ground. However, PO Filippi denied forcibly taking § 87(2)(b) to the ground, and PO Chan did not recall how she ended up there. Both PO Filippi and PO Chan denied that PO Filippi used any additional force against § 87(2)(b) aside from grabbing her arms and placing them behind her back (Board Reviews 05 and 06).

An officer may use force to reasonably take a lawfully arrested person into custody, or to prevent one's escape from custody. Some factors to consider in determining when to use force are the actions taken by the subject, and whether the subject is actively resisting custody. NYPD Patrol Guide, Procedure 221-01 (Board Review 07).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

Allegation C – Abuse of Authority: On November 28, 2017, in the vicinity of § 87(2)(b) in Brooklyn, Police Officer Joseph Filippi did not obtain medical treatment for

§ 87(2)(b)

§ 87(2)(b) alleged that, while she was sitting in the police vehicle, she told PO Filippi, “Your fingerprints are in me. I want to go to the hospital. I need to get medical treatment.” PO Filippi, who was sitting in the driver’s seat, did not respond to § 87(2)(b)’s request. § 87(2)(b) ultimately never received medical treatment, and denied seeking medical treatment after being released from custody (Board Review 01).

Both PO Filippi and PO Chan denied that § 87(2)(b) ever asked PO Filippi to go to the hospital, and both officers denied that PO Filippi refused to provide medical treatment to her (Board Reviews 05 and 06).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

Allegation D – Abuse of Authority: On November 29, 2017, inside of the 81st Precinct Stationhouse, an officer did not process § 87(2)(b)’s civilian complaint regarding Police Officer Joseph Filippi.

§ 87(2)(b) alleged that, after she was released from Central Booking, she went to the 81st Precinct stationhouse before 4:30 a.m. on November 29, 2017. She spoke to a 6’4” tall, slim black male, who had glasses, was bald, and who wore a blue uniform, who was behind the desk. She asked to “press charges” against PO Filippi, but the unidentified officer told her that she could not “file a report” because they did not know who the officer was and would have to go through the system to do it. During her intake phone call, she identified this officer as Sgt. Esdras Albert, stating that Sgt. Albert was a “great friend to [her] family.” However, during her in-

person statement, § 87(2)(b) did not provide the subject officer's name (Board Reviews 01 and 08).

Sgt. Albert, who is a 5'11" tall, 220-pound, bald black male according to his MOS photo, denied being assigned to the desk at the time of the incident, instead stating that he was the patrol supervisor on November 29, 2017. Sgt. Albert denied interacting with § 87(2)(b) inside of the stationhouse on November 29, 2017, and denied refusing to process her civilian complaint. Also, Sgt. Albert acknowledged "vaguely" knowing § 87(2)(b) was because he was on desk duty on the day of her arrest, but denied being present when she was brought into the stationhouse (Board Reviews 09 and 16).

PO Filippi denied seeing § 87(2)(b) inside of the stationhouse on November 29, 2017. PO Chan testified that, while he was assigned to stationhouse security on that day and learned from another officer that § 87(2)(b) came in at some point, he did not recall which officer told him this information and denied personally seeing § 87(2)(b) at the stationhouse (Board Reviews 05 and 06).

§ 87(2)(b)

Sgt. Albert's memo book entries indicate that he worked as the desk officer from 6:10 a.m. until 4 p.m. on November 28, 2017, and did not come back to work until 6:10 a.m. on November 29, 2017. Sgt. Albert's entries from November 29, 2017 confirm that he was assigned as the patrol supervisor (Board Review 10).

The command log for the 81st Precinct shows that Sgt. Laimundas Brazys was on the desk from 11:05 p.m. until 6:55 a.m., when he was replaced by Lieutenant Ronald Anderson (Board Review 11).

§ 87(2)(b)'s arraignment history for her arrest indicated that she was released from custody on November 29, 2017 at 12:23 a.m. (Board Review 12).

§ 87(2)(g)

§ 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation because of § 87(2)(b)'s arrest.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

- As of February 27, 2018, no Notice of Claim was filed for this incident (Board Review 14).

Civilian and Subject Officer CCRB Histories

- § 87(2)(b) has been party to one CCRB complaint, which she has been named victim to (Board Review 15):
 - § 87(2)(b)
- PO Filippi has been a member-of-service for two years and this is the first complaint to which he has been a subject.

Squad No.: 13

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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